

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 5:08-cr-9(DCB)(LRA)

MARK A. NECAISE

DEFENDANT

ORDER

This cause is before the Court on the defendant Mark A. Necaise ("Necaise")'s Motion for Return of Property (**docket entry 13**). Having carefully considered the motion, the government's response, the parties' memoranda and the applicable law, and being fully advised in the premises, the Court finds as follows:

The defendant's motion in this criminal action is identical to his Motion for Return of Property filed in criminal action no. 5:07-cr-27. The Court has filed a Memorandum Opinion and Order in criminal no. 5:07-cr-27, of even date herewith, denying Necaise's motion without prejudice and directing him to file a separate civil action for the return of property. Because the motion in this case was also filed after the criminal proceeding had already concluded, it too must be denied without prejudice. The Court assumes that since the motions are identical only one civil action will be necessary. Accordingly,

IT IS HEREBY ORDERED that the defendant Mark A. Necaise's Motion for Return of Property (**docket entry 13**) is DENIED without prejudice to the filing of a separate civil action.

SO ORDERED, this the 14th day of April, 2011.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE